

THE WHITE HOUSE

II-90060

WASHINGTON

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December 5, 1981

MEMORANDUM FOR THE VICE PRESIDENT

THE SECRETARY OF STATE

THE SECRETARY OF DEFENSE

THE COUNSELLOR TO THE PRESIDENT

✓ THE DIRECTOR OF CENTRAL INTELLIGENCE

THE CHIEF OF STAFF TO THE PRESIDENT

THE DEPUTY CHIEF OF STAFF TO THE PRESIDENT

THE CHAIRMAN, JOINT CHIEFS OF STAFF

SUBJECT: National Security Council Meeting

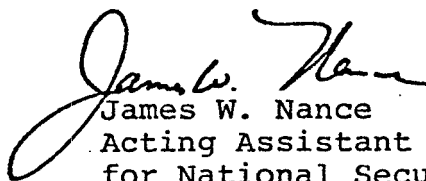
The President will chair a meeting of the National Security Council in the Cabinet Room of the White House on Monday, December 7, 1981, from 2:30 - 3:30 p.m. There will be one agenda item:

Counter Terrorism Planning Toward Libya

The papers for the agenda item are attached.

Principals only should attend the meeting.

FOR THE PRESIDENT:


James W. Nance
Acting Assistant to the President
for National Security Affairs

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Review on 11/28/01

THE SECRETARY OF STATE
WASHINGTON

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December 5, 1981

MEMORANDUM FOR: THE PRESIDENT

FROM: Alexander M. Haig, Jr. 
Frank C. Carlucci
William J. Casey

SUBJECT: Counter Terrorism Planning Toward Libya

At the NSPG on November 30 you directed that plans be developed for a response against Libya in the event of a further Libyan attempt to assassinate American officials or attack U.S. facilities. We have developed a proposed sequence of actions to be taken to deal with the growing Libyan threat. Pending your approval, this plan consists of:

1. Message to Qadhafi. On December 8, the State Department should transmit the Presidential message and oral note to Qadhafi at Annex A. The message would promise action under Article 51 of the UN Charter should the Libyans conduct another provocation. It would say that we consider provocation such as violence against U.S. officials, installations or citizens as "an armed attack on the United States." In addition, the message would convey that we are withdrawing American citizens from Libya and will regard Libyan efforts to interfere with this process as an equally grave provocation -- and so justifying U.S. responses under Article 51 of the UN Charter.

2. Withdrawal of Americans. (A) On December 9 you should meet with the Congressional leadership to inform them that you are suspending the use of American passports for travel to Libya and calling on all Americans to withdraw. (B) You should state that in the event that Americans do not withdraw voluntarily, you are prepared to use your statutory authority to order their withdrawal. You would also note that there are a number of steps that we could take if Libya attempted an assassination or other provocation, including both economic and military actions. Later in the day, you should meet with the Chief Executive Officers of American companies with U.S. citizens in Libya to outline the source of our concern, announce the suspension of travel to Libya and call upon the CEOs to withdraw their personnel as soon as possible. (C) Following the meeting with the CEOs, the White

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House should issue an announcement concerning the passport restrictions, the call for withdrawal of Americans, and a general statement about the seriousness with which we view Libyan lawlessness.

3. Contingency Economic Sanctions. After today's meeting you should privately direct the preparation of the necessary legal documents to implement economic sanctions. They should range from an oil boycott to a suspension of all trade with Libya. Those measures could accompany the use of military measures. In the event that the provocation comes during the period of withdrawal of the American citizens, economic measures would be taken.

4. Contingency Military Action. Concurrently, you should direct the JCS to ready assets to carry out military action against Libya in self-defense, following a further Libyan provocation. If the provocation came during the period of withdrawal of American citizens and did not result in the loss of life we would recommend that you authorize the immediate application of economic sanctions to include at least a cutoff of Libyan oil and further, that you direct the immediate development of decisive military measures (e.g. mining of Libyan ports). On the other hand, if his action-- either seizure of hostages or an assassination attempt-- did result in the loss of life we recommend that the United States respond with military force, drawing on the JCS options (e.g. an attack on a Libyan terrorist camp), while recognizing this could result in harm to Americans who might still be trying to leave Libya as well as those who may elect to remain. The JCS will brief the NSC on the detailed options outlined in table 1 of this paper.

5. Heightened Security Measures. You should direct the FBI, Secret Service, DOD, and other security forces to provide for heightened security measures for U.S. personnel and property worldwide. You also should direct that a plan be readied for additional security measures should the U.S. implement steps 3 and 4 above.

6. Congressional Consultations/Public Affairs. In response to a previous invitation on December 9 State Department witness will testify before the SFRC, detailing the acts of international lawlessness of Libya. Simultaneously, the State Department should conduct a press backgrounder to outline the acts of lawlessness and to suggest that we are considering responses.

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7. Foreign Demarches. On December 9, U.S. Ambassadors should explain your action to friendly governments around the world and call for their public support of our condemnation of the wave of Libyan lawlessness.

8. Soviet Involvement. State, DOD, and CIA should report to the NSC by December 11 on diplomatic and military steps that may be required to deter or prevent further Soviet military involvement in Libya.

Recommendation:

That you approve the eight-point action plan detailed above.

APPROVE _____ DISAPPROVE _____

The balance of this paper addresses: (1) an assessment of the threat; (2) the legal issues involved in a military response; (3) the military options developed by the JCS; (4) measures to achieve the early withdrawal of Americans from Libya and steps to be taken in the event action is required prior to the removal of Americans; (5) a diplomatic strategy to prepare for the event, and to deal with the consequences including a Presidential warning to Qadhafi; (6) a public affairs strategy; and (7) a Congressional strategy.

At Annexes A and B are: a draft message to Qadhafi and a chronology of recent CIA reports on Libyan activities against senior U.S. officials and installations.

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2. Legal Issues

International law recognizes the right of a state, which is a target of violent activities by another state, to take such military measures as it reasonably decides are immediately necessary and proportionate to defend its territorial integrity and political independence. Article 51 of the United Nations Charter expressly recognizes an "inherent right" of self-defense "if an armed attack occurs against a Member of the United Nations" as an exception to the general requirements, set out in Article 2 of the Charter, that Members settle their disputes through peaceful means and refrain from the threat or use of force in their international relations.

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The United States has traditionally taken a narrow view of the right of self-defense, recognizing that what we define as lawful uses of force by ourselves or our friends cannot be condemned as unlawful when employed by our enemies. (It is for this reason that we avoided a self-defense rationale for the 1962 quarantine of Cuba.) Thus, we have consistently maintained that force may be used in self-defense only when there is no prospect for peaceful resolution of the dispute and immediate military action is the only way a state can prevent injury from being inflicted upon it as a result of unlawful force by another. Further, we have insisted that the amount of force which may be used in self-defense is only that which is proportionate to the force being resisted. The purpose of self-defense is to defend against an unlawful use of force; armed reprisals intended only to deter or retaliate against unlawful acts by another state are themselves unlawful. At the same time, we have not accepted the argument that self-defense can never be employed until after an armed attack occurs, and we have asserted that an attack on nationals abroad is sufficient to give rise to a right of self-defense (e.g., Dominican Republic, Mayaguez, Entebbe, Iran hostage rescue attempt).

In the context of Libya's terrorist campaign directed against a large number of American officials, a limited military response directed at a terrorist related target in Libya in response to a specific terrorist incident would be justified. The legal rationale would be that this incident was not an isolated one, but a part of a broad, ongoing pattern amounting to an attack upon the United States against which all peaceful means of redress had been exhausted and where immediate military action was necessary to prevent further risk to American officials.

Action taken in self-defense must be reported immediately to the Security Council under Article 51 of the UN Charter. U.S. action against Libya would be highly controversial in that forum and our legal rationale would be subject to intense scrutiny.

As a matter of U.S. law, the President's independent constitutional authority to use military force where necessary to protect the lives of Americans has been recognized by the Supreme Court and is supported by numerous historical examples. The War Powers Resolution (P.L. 93-148), enacted in 1973, requires that the President consult with Congress "in every possible instance" before introducing U.S. forces into hostilities and that he report in writing to Congress within 48 hours after such an introduction has occurred. The implementation of these statutory requirements is discussed in the Congressional Strategy section of this paper.

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The War Powers Resolution provides that Congress may require the President to terminate the involvement of U.S. forces in hostilities at any time by concurrent resolution. The resolution further provides that such involvement must terminate in any event if Congress has not acted within 60 days to authorize continued involvement. This 60 day period may be extended if necessary to effect the safe disengagement of U.S. forces.

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4. Early Withdrawal of American Citizens and Contingent Actions

It is the consensus of your advisors that the prompt withdrawal of Americans should be a pre-condition to taking violent military action against Libya. Qadhafi may not give us that freedom of action, however. He could, for example, take action to impede the departure of Americans or go ahead with an attack on a U.S. official. In either event, if his action did not result in the loss of life we would recommend that you authorize the immediate application of economic sanctions to include at least a cutoff of Libyan oil and further, that you direct the immediate development of decisive military measures (e.g. mining of Libyan ports). On the other hand, if his action--either seizure of hostages or an assassination attempt--did result in the loss of life we recommend that the United States respond with military force, drawing on the JCS options (e.g. an attack on a Libyan terrorist camp), while recognizing this could result in harm to Americans who might still be trying to leave Libya as well as those who may elect to remain.

Withdrawing American Citizens

We propose the following scenario for achieving withdrawal of American citizens:

-- The President would call in the chief executive officers of the parent U.S. businesses involved and advise them: (a) that our relations with Libya have reached such a state that we have become seriously concerned for the safety of U.S. personnel in Libya; (b) accordingly, the Secretary of State

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will immediately impose passport restrictions. We would justify passport restrictions on the grounds that the unpredictable and hostile attitude of the Libyan regime poses a real threat to the safety of U.S. personnel in Libya, and the absence of U.S. diplomatic and consular representation in Libya makes it impossible for us to provide any protection for these personnel; (c) if existing personnel are not withdrawn promptly, we will take measures to compel their withdrawal under the Export Administration Act or IEEPA. The President would seek the views of the CEO's as to whether these legal measures would be helpful to them in withdrawing their personnel.

Libyan Response

We cannot judge how the Libyan Government might react to these steps. Libya requires exit visas for foreigners prior to departure. Although normally issued within 48 hours, the exit visa could be delayed indefinitely. We believe the safety of the personnel can best be protected if the companies were to withdraw them in advance of our announcement of mandatory measures under IEEPA or the Export Control Act.

5. Diplomatic Strategy

The diplomatic strategy is in two phases: prior to and after any action against Libya. Prior to the action, our diplomatic strategy should work closely in tandem with our public affairs approach. Just as we build public and general international awareness of Qadhafi's assassination campaign, the points we are making should be systematically reinforced with governments throughout the world, with special emphasis on Allied and friendly Arab regimes. Much of the spadework has already been done but we should immediately undertake a more intensive effort based on hard evidence.

The additional step in the first phase is to send a strong Presidential warning to Qadhafi in a final effort to deter a further assassination attempt or any interference in the peaceful withdrawal of Americans. We would send the warning through the Belgians and through a CIA contact. We should give subsequent consideration to making the warning public once our public affairs strategy has prepared the way, and in light of our assessment at that time whether a public warning would deter Qadhafi or increase his determination. A draft cable text is attached at Annex A.

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The Allies

Although our allies share our desire to counter Qadhafi's excesses, they will not want to be associated with any military response to Libya. Most European states (Italy, France, Turkey, etc.) have large numbers of nationals in Libya. Many, especially Turkey and Germany, are reliant upon Libyan oil. Italy, in particular, relies upon Libya as a market and a source of foreign capital. Others, particularly Greece, have domestic political parties that support Libya.

We must decide whether to inform our allies when we communicate a warning to the Libyans. Not informing them runs the risk that they will learn of the warning from intelligence sources or the press. In addition to increasing the risks of leaks, informing the Allies runs the risk that they will seek to learn the details of our planned defensive measures and to stress that their facilities could not be used in such action.

On balance, it seems advisable to avoid discussions with our allies about our warning to Libya. In coordination with our public affairs strategy, however, we will want to share with them the intelligence we have concerning Libyan plots to assassinate American officials. The Secretary's meeting with the Quad on December 9th provides an opportunity to brief on the strength of US concern and determination.

If military action becomes necessary, we should seek to minimize the use of allied facilities. The use of British and Spanish bases for KC-135s in support of the Strategic Projection Force (SPF) may be required. Portuguese Lajes may be required for the same purpose. As in the past, we should seek those bases for "routine training missions," so as not to force the host governments into a decision, and we should not comment on the use of those bases after the attack. It may be necessary, however, to covertly inform selected officials to insure that air traffic controllers do not report or question the massed formation of bombers that they will detect if the SPF is used. Informing selected officials in this way would also diminish the risk that the host government might later claim that such use of facilities in their territory exceeded U.S. rights under the applicable base agreements.

The only other allied facilities that are likely to be required for military operations are US Navy facilities in Italy. Although the GOI did take some parliamentary criticism after the Gulf of Sidra incident, we expect that the GOI will not interfere in our use of the facilities.

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We may have to give consideration to Egyptian bases and, if necessary, the British base on Cyprus might be used for these purposes. Given the need to insulate Egypt from hostile domestic and Libyan reaction, Egyptian bases (although probably available) should only be used if absolutely necessary. Use of Italian, Greek, or Israeli facilities should be avoided.

The Soviet Union

The Soviets have for several years been pressing Libya to accept greater Soviet military presence. The Soviets and their Warsaw Pact allies already have military and intelligence advisors in country. The bulk of Libyan arms are Soviet, including a stock of armor sufficient to equip a multi-division Army. Most important, Libya serves the Soviet Union's foreign policy goals in the Middle East by carrying out actions which the Soviet Union would itself be unable to do without provoking the United States and regional distrust.

Moreover, the Soviets can use any direct clash between Libya and the United States to a) stimulate a breach between the US and moderate Arab regimes over action against Libya, stir anti-American propaganda in the Middle East; and (b) press the Libyans to allow the stationing of Soviet forces. Qadhafi has already said that he would consider "joining the Warsaw Pact" because of the US "base" at Ras Banas. There also are tangible risks of superpower confrontation and escalation if the Soviets are caught by surprise and miscalculate.

While we have considered the advisability of a message to the Soviet leadership in coordination with our message to Qadhafi, we believe we should only send a message at the time of our action. Prior warning would enable the Soviets to embarrass us in international fora, or to persuade Qadhafi to accept a Soviet presence in Libya in advance of a U.S. attack.

The message to the Soviets should make the following points:

o we have confirmed intelligence that the government of Libya has (attempted) (carried out) assassination(s) of American official(s); we invite the Soviet Union to confirm that for itself through its own means;

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o such conduct is an intolerable breach of the minimum norms of international practice and rivalry; the Libyan action constitutes an armed attack against the United States and we have responded accordingly in order to defend ourselves against Libyan terrorist attacks;

o we call upon the Soviet Union to use its influence with Libya to terminate this conduct; if that fails and another provocation occurs, we strongly advise the Soviet Union not to become directly involved in the defensive reaction that will ensue; such involvement will not deter us; it will only widen the conflict.

Whatever course the Soviets choose, it is highly unlikely that they will attempt to use their own forces to block a US action against Libya, unless they could arrange stationing in advance of the operation. Soviet advisors may assist Libyan air defense operations, but it is unlikely that they will use their Mediterranean squadron against U.S. carriers because of prohibitive losses and likely escalation.

After the initial US response, however, there would be a high probability of an increased Soviet presence. At a minimum it probably would involve Soviet port visits on a regular basis and additional advisors. At the maximum, it could involve the deployment of Soviet combat forces (e.g., an airborne division) to "deter the attack by Egypt." The probability of the Soviet action decreases with the size of the Soviet forces postulated. An urgent analysis will be conducted to define U.S. actions toward any Soviet attempts to increase its presence in Libya.

Regional States

Reaction in the Middle East region and in the Third World will be largely negative in public, with predictable exceptions in Egypt, Israel, Sudan, and Oman. Some states closest to Libya--Syria, Ethiopia, and PDRY will react the most strongly, with their options including a break in diplomatic relations, sponsored crowd attacks against American facilities, clandestine terrorist attacks against American personnel, strong verbal condemnation and moving closer to the Soviets. The reactions of most governments in the region will be strongly conditioned (1) by their perception of the provocation; (2) the proportionality of US responses and (3) the means used.

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It is extremely important that the US case against Libya be factual and convincing. Also a US response specifically targeted against a demonstrable center of Libyan terrorist training will be considered in the Middle East and Third World as more "proportionate" than attacks against Libya's military capability. Finally, the use of B-52s, as opposed to aircraft from the Sixth Fleet, would evoke a highly emotional response in much of the Third World, reflecting opposition to the US role in Vietnam.

Except in those cases in which we require direct cooperation in the use of facilities, we should provide no advance notification of military action to any regional states, in order to avoid leaks or efforts to dissuade us. As soon as the operation is underway, we should inform the governments of Israel, Egypt and Sudan.

With Egypt, Sudan, Saudi Arabia, Oman, Tunisia, and Morocco we should reiterate our assurances that they would have U.S. support in the event of Libyan military action against their territories (which we consider unlikely). Although further joint contingency planning may be required if the risk of escalation is high, we should specifically discourage Egypt from taking the opportunity to attack Libya. In order to avoid Arab reaction against Egypt, we should not involve Egypt in prior planning or use Egyptian facilities for mounting the action.

Following completion of the action, the US should take the following diplomatic steps:

-- Inform all NATO allies and Japan with a message from the President or the Secretary detailing Libyan provocations, the action taken and the rationale under international law.

-- A similar message should be sent to all diplomatic posts for use with officials of host governments.

-- Regional Assistant Secretaries of State should call in Ambassadors in Washington for a briefing.

-- The Secretary should send an immediate message to the UN Secretary General, emphasizing the right of self-defense under Article 51.

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While we would not call a meeting of the Security Council, the Libyans or Soviets might do so. We should be prepared both to defend fully our action and to veto any unfavorable resolution. We will need to stay in closest consultation with the British and French on a Security Council debate. A more serious problem would be a General Assembly debate and anti-US resolution with Third World support. The steps outlined above and in our public affairs strategy will help to minimize this risk. By moving quickly to broaden understanding of Libyan provocations and the right of the US to respond, we may be able to limit the damage to a negligible degree as we did in the Gulf of Sidra incident in August.

6. Public Affairs Strategy

A public affairs strategy for a military action against a Libyan terrorist action/assassination attempt must emphasize the defensive nature of our action if it is to counter the arguments that we are (1) engaged in aggression against a small nation, or (2) plunging thoughtlessly into a process which could lead to confrontation with the Soviets. This requires that we (1) immediately declassify and publicize more concrete details about Libyan involvement in terrorism, including more details about Libyan "hit squads" believed to be in the U.S., and (2) voice public warnings to Qadhafi that an attack on American officials will result in the gravest consequences for his country.

We have already released some details of Libyan activities against American officials. A buildup in the level of publicly available detail, as Libyans continue and/or increase their activities, would keep the story before the public and help solidify the already widespread opinion of Libya as an outlaw state. Details of specific threats posed by Libyan activities have been compiled and are available for release. Libya must be viewed as not an enemy of the U.S., but as an outlaw prepared to violate the most basic rules of international behavior if widespread support of retaliatory action is to be generated. Publicizing of Libyan activities should thus concentrate on its most reprehensible behavior, i.e., actual steps to assassinate the President or other high government officials and the attempts to blow up the American Club at Khartoum.

Public warnings against Libyan activities will serve a dual purpose. They will further educate the public to the extent of Libyan activities and prepare for action against Libya. By clarifying a firm line against Libya, they will also build support for any action which might be taken. A

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public statement which makes clear what we believe to be the danger posed by Libya, notes that we cannot tolerate such actions and makes clear that we will take defensive action which will pose grave consequences for Libya (without detailing what such actions would be) should be made as soon as possible. The Congressional hearings on Libya scheduled for December 9 provide an early opportunity.

7. Congressional Strategy

The War Powers Resolution requires advance consultation where possible, and it would be difficult to justify not consulting prior to self-defense strikes for which contingency planning exists, particularly if we have warned Qadhafi and possibly informed others. The Resolution does not define the nature of the consultations asked for, however, so we have some latitude in choosing which and how many members we consult.

There was no consultation in the Iran rescue attempt because of the need for absolute secrecy. In this case, the fact that we will be warning Qadhafi and perhaps informing some others in advance means that a failure to consult would be criticized by the Congress. The danger of leaks could be counterbalanced by the deterrent effect which some prior public discussion might have on Qadhafi. In any event, there is no requirement that we inform Congress of military contingency plans in any operational detail.

We should immediately brief the chairmen and ranking minority members of the armed services and foreign affairs committees as well as the leadership in both houses. Some form of involvement by the intelligence committee also may be desirable. The consultations would not need to be labeled as War Power discussions and could begin in the context of our broader public affairs strategy. We would lay out in some detail the evidence of Libyan assassination plans and discuss options for responding, including a non-detailed discussion of possible retaliatory actions. Such discussions may be sufficient to meet the War Powers Resolution requirements in advance of retaliatory strikes. We would then submit a full report after the strikes.

The African and Middle East subcommittees of the SFRC plan a hearing on Libya on December 9. Committee attention probably will focus on press accounts of Libyan assassination plots and on possible economic sanctions. We should consider using those hearings (a) to confirm the reports of planned assassinations and (b) to state publicly that we will react strongly to any such attempts.

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Any discussion of possible U.S. reaction should be kept general. The witnesses should say only that:

- a very strong U.S. reaction could be anticipated;
- further speculation on the nature of the reaction is not appropriate; and
- appropriate consultations with Congress would occur, with due regard to the needs of timely reaction and secrecy.

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ACTION: BRUSSELS

EYES ONLY FOR AMBASSADOR

1. (TOP SECRET - Entire Text)
2. Please ask the Foreign Minister to pass ASAP the following message from President Reagan to Colonel Qadhafi via the Belgian Embassy in Tripoli.
3. Begin Text: I have detailed and verified information about several Libyan-sponsored plans and attempts to assassinate U.S. government officials and attack U.S. facilities both in the United States and abroad. Any acts of violence directed by Libya or its agents against officials of the United States, at home or abroad, or against U.S. installations around the world, will be regarded by the United States Government as an armed attack upon the United States, and will be met by every means necessary to defend this nation in accordance with Article 51 of the United Nations Charter. In addition, any threats to U.S. citizens now in Libya or efforts to interfere with our plans to have U.S. citizens depart from Libya will also be regarded by the USG as an equally grave provocation, justifying equally grave responses.

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SUBJECT: Talking Points for Possible Inclusion as an Oral
Note when Delivering the Message to Qadhafi

Following are talking points that might merit inclusion in a warning message for delivery to Libyan Leader Mu'ammarr Qadhafi:

- We are in receipt of numerous reports indicating that Libya is planning an operation designed to assassinate the American President, or another senior United States official.
- We have persuasive reporting that Libya planned an attack against Ambassador Rabb in Rome.
- We have strong indications that Libya was responsible for the 12 November attack on American charge Christopher Chapman.
- We have strong indications that Libya is planning terrorist actions against American targets in East Africa.
- We know that 'Abdullah SANUSI, 'Abdullah HIJAZI, Khalifa HUNAYSH, and 'Abd al-Rahman SHAYBI are some of the Libyan officers involved in terrorist and assassination planning.

Following are some other points that might be useful to include in order to heighten the impact of the message:

- We are making the demarche quietly and confidentially in order to spare the Libyan government and people possible embarrassment.
- As in the case of Libyan planning for the assassination of U.S. Ambassador to Cairo Herman Eilts in 1976-1977, we have excellent reporting on Libyan plans, intentions, and personalities.
- We are not interested in a Libyan denial of the above information since, as in the case of the Eilts operation, we know that any such denial would be false.
- What we do want is for Libya to cease the planning and implementation of these operations, as happened in the Eilts operation in 1977.
- Verbal assurances that these operations have ceased would be welcomed, but are unnecessary; our intelligence services will be monitoring Libya very closely and will know if, and when, these operations are stopped.

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Annex B

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